

APPEAL NO. 010344

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 31, 2001. The hearing officer determined that: (1) the appellant's (claimant) compensable injury sustained on _____, did not extend to include an injury to his thoracic and lumbar spine; and (2) the first certification of maximum medical improvement (MMI) and impairment rating (IR) did not become final under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.5(e) (Rule 130.5(e)). The claimant appeals the hearing officer's determination regarding extent of injury as being against the great weight and preponderance of the evidence. The respondent (carrier) urges affirmance of the hearing officer's decision. The hearing officer's decision with regard to the first certification of MMI and IR was not appealed by either party and is therefore final.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury sustained on _____, does not extend to include an injury to the thoracic and lumbar spine. The claimant had the burden to prove that his alleged spinal injuries naturally resulted from the compensable injury to his left knee. Section 401.011(26). See Texas Workers' Compensation Commission Appeal No. 950524, decided May 19, 1995. Where the matter of causation of the claimed injury is beyond common knowledge or experience, expert evidence to a reasonable degree of medical probability is required. Houston General Insurance Company v. Pegues, 514 S.W.2d 492 (Tex. Civ. App.-Texarkana 1974, writ ref'd n.r.e.). The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer's determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The decision and order of the hearing officer is affirmed.

Susan M. Kelley
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Thomas A. Knapp
Appeals Judge